

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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JILL COOK,

Plaintiff,

v.

STATE FARM MUTUAL AUTOMOBILE  
INSURANCE COMPANY,

Defendant.

Case No. 2:14-cv-00524-RFB-PAL

ORDER

Before the court is Plaintiff's Sealed Motion to Compel (Dkt. #56) with supporting exhibits, Plaintiff's Motion to Seal (Dkt. #57) and the parties' Stipulation and Order to Stay Proceedings Pending Mediation (Dkt. #59).

The motion to compel involves a subpoena duces tecum served on non-party, Joseph J. Schifini, M.D., pursuant to Fed. R. Civ. P. 45. Dr. Schifini's counsel and Plaintiff's counsel have conferred about the subpoena and notice of taking deposition of custodian of records served on Dr. Schifini on June 9, 2015, but were unable to resolve their dispute. The motion to compel was served on counsel for Dr. Schifini, but a response to the motion has not been filed.

The Motion to Seal (Dkt. #57) was filed pursuant to Paragraph 17 of the parties' stipulated protective order governing confidential information because it "contains information that State Farm Mutual Insurance Company has deemed confidential." No explanation is given for why the motion to compel itself should be sealed. Some of the exhibits are merely the subpoena and notice of taking deposition. State Farm has not filed anything with the court to justify sealing the motion itself, portions of the motion or any of the exhibits filed under seal.

Finally, the parties' Stipulation and Proposed Order to Stay Proceedings Pending Mediation (Dkt. #59) indicates that the parties have resolved their breach of contract dispute by

1 State Farm's offer to pay the \$100,000 contractual limit of Plaintiff's UM/UIM policy coverage,  
 2 and that the parties have agreed to mediate Plaintiff's remaining bad faith and Unfair Claims  
 3 Practices Act claims. However, no information concerning whether the mediation has been  
 4 scheduled, and if so, when has been provided. The parties seem to propose an indefinite stay  
 5 except for resolution of the pending motion to compel.

6 Having reviewed and considered the matters,

7 **IT IS ORDERED** that:

- 8 1. A hearing on the Motion to Compel (Dkt. #56), Motion to Seal (Dkt. #57) and  
 9 Stipulation to Stay Proceedings (Dkt. #59) is set for **10:00 a.m., October 20, 2015**, in  
 10 Courtroom 3B.
- 11 2. Counsel for non-party Dr. Schifini shall have until **October 5, 2015**, in which to file a  
 12 response to the motion to compel. Plaintiff shall have until **October 13, 2015**, to file  
 13 a reply.
- 14 3. Counsel for Plaintiff shall forthwith serve counsel for Dr. Schifini with a copy of this  
 15 order and file proof of service with the Clerk of the Court.
- 16 4. The Motion to Compel (Dkt.#56 ) is unsealed. The exhibits to the motion shall  
 17 remain sealed pending an opportunity by State Farm to file the appropriate  
 18 memorandum of points and authorities. State Farm shall have until **October 5, 2015**,  
 19 to file a memorandum of points and authorities supporting any request to seal any of  
 20 the exhibits submitted with the motion to compel. The memorandum shall comply  
 21 with the standards for sealing articulated by the Ninth Circuit in *Kamakana v. City*  
 22 *and County of Honolulu*, 447 F.3d 1172 (9th Cir. 2006).
- 23 5. Failure to timely file a memorandum will result in unsealing all of the attached  
 24 exhibits.

25 DATED this 22nd day of September, 2015.

26  
 27   
 28 PEGGY A. LEEN  
 UNITED STATES MAGISTRATE JUDGE